

EXHIBIT 7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:)
PHARMACEUTICAL INDUSTRY) CA No. 01-12257-PBS
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Pages 1 - 49

MOTION HEARING

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
February 27, 2007, 10:10 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 3205
Boston, MA 02210
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1 A P P E A R A N C E S:

2 For the Plaintiffs:

3 RENE' BROOKER, ESQ. and GEJAA T. GOBENA, ESQ., United
4 States Department of Justice, Civil Division, Commercial
5 Litigation, Fraud, 601 D Street, N.W., Washington, D.C.,
6 20004.

7 JAMES J. BREEN, ESQ., 3562 Old Milton Parkway,
8 Alpharetta, Georgia, 30005, for the Relator, Ven-A-Care of
9 the Florida Keys.

10 For the Defendants:

11 JAMES R. DALY, ESQ., Jones Day,
12 77 West Wacker, Chicago, Illinois, 60601-1692, for Abbott
13 Laboratories.

1 one hundred.

2 THE COURT: Yes, that makes sense.

3 MS. BROOKER: And the last remaining issue --

4 MR. DALY: But before we move off of that, we had
5 also agreed -- I want to make sure this is okay with the
6 Court -- that -- those are the authentication ones -- we had
7 agreed also to 150 regular requests to admit; in other words,
8 that don't attach the documents.

9 MS. BROOKER: But what I hear your Honor saying is,
10 you need to have it under limitation.

11 THE COURT: Yes, if you agree, I agree, but not
12 infinite.

13 MR. DALY: Right, I understand.

14 THE COURT: What I'm not going to do is what
15 Judge Young did, which is find a storage room for the
16 thousands and thousands of requests to admit. It got to the
17 point of ludicrous, and so limits are good.

18 MS. BROOKER: Limits are good, your Honor. We have
19 been pushing limits.

20 The last remaining area are depositions. In the
21 initial proposal, we asked for 250 hours for each side to
22 take in deposition hours. Instead of, you know, full days,
23 we just said, "Use your hours however you want. You might
24 want to depose this person for two hours, someone else for
25 twenty-one hours." They said "500 hours." Now Abbott wants

1 no deposition limitation. And I think 500 hours, which is 70
2 days for each side, between now and eight months from now is
3 not good enough. We want some sort of limitation.

4 THE COURT: Yes, you need a limit.

5 MR. DALY: Judge, here's our problem with that.
6 They've sued us for ten years of Medicaid. That's fifty
7 states. Each of those states has a financial intermediary.
8 They've sued us for ten years of Medicare. We have about
9 fifty Medicare carriers that we're seeking discovery from.
10 We've got ten years of CMS, HCFA, and other federal
11 employees, present and former. Five hundred hours is only 70
12 depositions of one day.

13 MS. BROOKER: Each side.

14 MR. DALY: Well, I'm only talking about what I need
15 to do.

16 THE COURT: Listen, just come up with a reasonable
17 calculation of, let's say, four hours per person or eight
18 hours per person and come up with an hour limit.

19 MS. BROOKER: Your Honor, what we --

20 THE COURT: Not unlimited. Just come up with a
21 reasonable calculation, and then you'll have to economize
22 internally. So let's say fifty states? So let's say eight
23 hours for each administrator? So that's 400 right there,
24 right?

25 MR. DALY: Right.

1 THE COURT: So let's say you need to do how many
2 officials at Medicare?

3 MR. DALY: We're not sure. They've listed about 35
4 in their 26(a)(1) disclosures. I don't know if those will be
5 the ones we depose.

6 THE COURT: So maybe four hours apiece.

7 MS. BROOKER: Well, they recommended 500 hours, and
8 we said 250, and today outside the courtroom we said, "Okay,
9 we'll go with your highest number." Five hundred hours, your
10 Honor, for each side between now and the end of the month is
11 not even feasible.

12 THE COURT: I'm not disagreeing. You need to come
13 up with a limit, or it will eat you. And if you can't agree,
14 I'll come up with one. You'll have to come up with an
15 estimate. So it does strike me as fair, though, if you're
16 suing him for fifty Medicaid states, they have the right to
17 take fifty Medicaid administrators, right?

18 MS. BROOKER: Well, I think, you know, there can be
19 a more efficient way than to depose fifty individuals.

20 THE COURT: How? I don't know. I don't know
21 enough about it.

22 MR. DALY: But our position, Judge, is, even if we
23 didn't do them all, we have to do enough to get a reasonable
24 cross-section to do it, and it might take more than one
25 person from each state. We don't know.